

ARTICLE XVII-A REZONING (MAP AMENDMENTS), TEXT AMENDMENTS, SPECIAL EXCEPTIONS, VARIANCES AND USE PERMITS

1701-A General Provisions

The regulations, provisions, restrictions and district boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed or repealed. Also from time to time, the public health, safety or general welfare of the community may require that Special Exceptions, Variances, and Use Permits be granted in specific cases as set forth in the Ordinance.

1701.01-A Purpose of Use Permits: The development and execution of this Ordinance is based upon the division of the community into districts, within which districts the use of land and building and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are certain uses which are generally compatible with the land uses permitted in a zoning district, but due to their unique characteristics, require individual review to ensure the appropriateness and compatibility of the use on any particular site. Use Permits may therefore be granted by the City Council for those uses enumerated in each of the zoning districts established in Article III, Section 301, of this Ordinance in accordance with the standards and procedures of this Article and the standards enumerated for each Use Permit in the district regulations.

1701.02-A Application of Use Permits: When considering application for Use Permits, the City Council shall consider the extent to which:

1. The proposed use is compatible with the character of development in the vicinity relative to density, bulk and intensity of structures, parking, and other uses;
2. The proposed use will not be detrimental to the continued use, value, or development of properties in the vicinity;
3. The proposed use will not adversely affect vehicular or pedestrian traffic in the vicinity;
4. The proposed use can be accommodated by existing or proposed public services and facilities including, but not limited to, water, sanitary sewer, streets, drainage, police and fire protection, and schools;
5. The proposed use is in harmony with the Comprehensive Plan;
6. The proposed use will not be hazardous, detrimental, or disturbing to present surrounding land uses due to noises, glare, smoke, dust, odor, fumes, water pollution, vibration, electrical interference, or other nuisances.

1701.03-A Authority For Conditions: A Use Permit may be issued subject to such conditions as are necessary to carry out the purpose of this Ordinance and to prevent or minimize adverse effects upon other property in the neighborhood, including, but not limited to, limitations on size and location, requirements for landscaping, lighting, the provisions of adequate ingress and egress, duration of the permit which may be permanent or may be limited to a specific period of time and hours of operation. Such conditions may include a requirement for a second stage approval process under the provisions of Section 1703.06-A

Section 1702-A Public Hearing Required

No action shall be taken concerning Rezoning, Text Amendments, Special Exceptions, Variances, or Use Permits until after a public hearing in relation thereto, at which parties in interest and the general citizenry shall have an opportunity to be heard. Before the City Planning Board or City Council holds such a hearing, there shall be two (2) advertisements of

the hearing, which advertisements set forth the time and place of the hearing, describe the nature of the proposed request or text amendment, and if property is involved, the existing zoning and purported changes and modifications therein. Such publication shall be made in a newspaper of general circulation within the City of Jackson, Mississippi, the first publication to be at least fifteen (15) days before such hearing.

Section 1703-A Procedure for Rezoning, Special Exceptions, Variances, and Use Permits

No Rezoning, Special Exception, Variance, and/or Use Permit shall be passed by the City Council unless and until the following conditions have been met:

1703.01-A Signs Required: In the case of Rezoning, Special Exceptions, Variances, and/or Use Permits, Zoning Notice signs shall be erected at least fifteen (15) days prior to the hearing. The Zoning Notice sign shall indicate the case number.

1703.02-A Application Requirements: A written application for a Rezoning, Special Exception, Variance, and/or Use Permit shall be filed with the Zoning Administrator. Rezoning of a property shall not be granted unless the applicant can prove by clear and convincing evidence either, (1) that there was a mistake in the original zoning, or (2) the character of the surrounding area has changed to such an extent as to justify rezoning and there is a public need for additional property to be zoned in accordance with the request in said application. If an application for rezoning is denied by the City Council or if said application is withdrawn after the Planning Board has recommended denial of the application, then such property may not be the subject of an application for rezoning for a period of one year from the earliest date of such denial or withdrawal. Anything stated to the contrary notwithstanding, under no circumstances shall an application filed hereunder be processed while any litigation is pending concerning the zoning of the subject property.

1703.02.1-A Application for Rezoning: This application shall include a legal description, plot plan, and location map of the property, the exact nature of the proposed change, a detailed listing of documents included in the application setting forth the grounds upon which said application is made, the change in land use conditions affecting the property since any previous City Council action, a listing of the owners of all property within one hundred-sixty (160) feet and all neighborhood organizations registered with the Department of Planning and Development with geographic boundaries within one thousand (1,000) feet in all directions therefore the property lines of the lot or parcel of land for which the application is being submitted, excluding width of streets, and any such other information as may be required by the Zoning Administrator to determine the merits of the application. In order to obtain a change in the zoning classification of real property in the City of Jackson, Mississippi, applicant must prove by clear and convincing evidence either (1) that there was a mistake in the original zoning, or (2) substantial change in the land use character of the surrounding area which justifies rezoning the property and a public need for additional property that area zoned in accordance with the request in said application since any previous City Council action. The petitioner shall show proof of notification to all of the listed property owners and organizations by submitting certified mail receipts and a copy of the letter sent to the listed in property owners and organizations. Such letter shall include the date, time, location, and purpose of the stated public hearing. In the alternative applicant may present a petition bearing the signatures of the listed property owners and organizations as proof of notification.

1703.02.2-A Application for Special Exception: This application shall include a legal description of the property, a plot plan of the property, and the non-retail type use to which the property and/or structure is contemplated. The justification statement shall state the grounds upon which the request is based, and shall further demonstrate that the granting of such Special Exception

will not adversely affect the surrounding properties nor otherwise be detrimental to the public welfare. The petition shall contain a listing of names of the owners of all the property within one hundred-sixty (160) feet and all neighborhood organizations registered with the department of Planning and development with geographic boundaries within one thousand (1,000) feet in all directions from the lot or parcel of land for which the application is being submitted, excluding width of streets, and any such other information as may be required by the Zoning Administrator to determine the merits of the application. The petition shall show proof of notification to all of the listed property owners by (1) submitting certified mail receipts and a copy of the letter sent to the listed property owners. Such letter shall include the date, time, location, and purpose of stated public hearing; or (2) a petition bearing the signature of the listed property owners; or (3) a combination of Items (1) and (2).

1703.02.3-A Application for Variance: This application shall include a legal description, location map, plot plan, the exact nature of the requested Variance, the grounds upon which it is requested, any City Council action involving rezoning or any variance, or such other information as may be required by the Zoning Administrator to determine the merits of the application. The variance application shall demonstrate the following:

1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
2. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the provisions of this Ordinance.
3. That the special conditions and circumstances do not result from actions of the applicant.
4. That granting the Variance requested will not confer upon the applicant any special privilege that is denied by this Ordinance to other similar lands, structures or buildings in the same district.

The petition shall contain a listing of names of the owners of all the property within one hundred-sixty (160) feet and all neighborhood organizations registered with the Department of Planning and Development with geographic boundaries within one thousand (1,000) feet in all directions from the lot or parcel of land for which the application is being submitted, excluding width of streets, and any such other information as may be required by the Zoning Administrator to determine the merits of the application. The petition shall show proof of notification to all of the listed property owners by (1) submitting certified mail receipts and a copy of the letter sent to the listed property owners. Such letter shall include the date, time, location, and purpose of stated public hearing; or (2) a petition bearing the signatures of the listed property owners; or (3) a combination of Items (1) and (2).

1703.02.4-A Application for Use Permit: This application shall include a legal description of the property, a site plan of the property, and the specific use to which the property and/or structure is contemplated. The justification statement shall state the grounds upon which the request is based, and shall further demonstrate that the granting of such Use Permit will not adversely affect the surrounding properties nor otherwise be detrimental to the public welfare. The petition shall contain a listing of names of the owners of all the property within one hundred-sixty (160) feet and all neighborhood organizations registered with the Department of Planning and Development with geographic boundaries within one thousand (1,000) feet in all directions from the lot or parcel of land for which the application is being submitted, excluding width of streets, and any such other information as may be required by the Zoning Administrator to determine

the merits of the application. The petition shall show proof of notification to all of the listed property owners by (1) submitting certified mail receipts and a copy of the letter sent to the listed property owners. Such letter shall include the date, time, location, and purpose of stated public hearing; or (2) a petition bearing the signature of the listed property owners; or (3) a combination of Items (1) and (2). Application for a Use Permit shall be accompanied by a site plan drawn at a scale to allow adequate review. Site plans shall include the following:

1. Property boundary lines and dimensions, available utilities, location of easements, roadways, rail lines and public right-of-way crossing adjacent to the subject property;
2. The proposed height, dimensions and arrangements of buildings and uses on the site;
3. The type and location of landscaping proposed for the site;
4. The locations of points of ingress and egress from the site;
5. The location of driveways, parking lots and loading areas on the site;
6. The location of any proposed substantial regrading on the site and any significant topographical or physical feature, including water courses.

1703.03-A Public Hearing Held: After public notice has been published as aforementioned, a public hearing on the Rezoning, Special Exception, Variance or Use Permit shall be held before the City Planning Board at its Zoning Meeting. At said hearing, any individual may appear in person or by agent.

1703.04-A Application Reviewed by Planning Director: At least fifteen (15) days prior to the public hearing to be conducted at the City Planning Board's Zoning Meeting, the Zoning Administrator shall submit the application for Rezoning, Special Exception, Variance, or Use Permit to the Planning Director for determination as to whether or not the requested changes are in conformance with the officially adopted overall Comprehensive Plan for City Development. The Planning Director, within ten (10) days, shall certify in writing to the Zoning Administrator his finding that the proposed Rezoning, Special Exception, Variance, or Use Permit does or does not conform to the Comprehensive Plan for City Development. The Zoning Administrator shall then transmit this certification of the finding to the City Planning Board. If a written statement is not received from the Planning Director within the ten (10) day period, the Zoning Administrator shall so advise the City Planning Board and continue the due processing of the application.

1703.05-A Public Hearing Procedures: Proceedings of the hearing at the City Planning Board's Zoning Meeting shall be taken down in shorthand and/or by mechanical or tape recording, which cannot be altered, and all witnesses before said City Planning Board's Zoning Meeting shall be sworn in by an officer qualified to administer oaths under the laws of the State of Mississippi. The hearing at the zoning meeting may proceed informally without strict compliance with rules of evidence. The Chair of the City Planning Board's Zoning Meeting shall act as moderator.

1703.06-A City Planning Board's Zoning Meeting Determination: Within fifteen (15) calendar days from the conclusion of such hearings, the Zoning Administrator shall prepare and submit in writing the findings from the City Planning Board. The City Planning Board shall, within fifteen (15) days, give its recommendations in writing to the Zoning Administrator, and which shall become a recommendation to the City Council. After the City Planning Board has acted upon a proposed Use Permit application and required site plans, at the zoning meeting, the applicant shall submit a modified site plan to the Zoning Administrator, if necessary, reflecting conditions

recommended by the City Planning Board prior to forwarding the request to the City Council.

1703.07-A Notification by Zoning Administrator: The Zoning Administrator shall, within five (5) working days of such decision and recommendations, mail a copy of same to all parties in interest who appeared at said hearing.

1703.08-A City Council Notified: After fifteen (15) days from the date of the City Planning Board decision or recommendation, the Zoning Administrator shall forward to the City Council such recommendation, along with all documents and exhibits pertaining to the case. If no appeal is filed by a party of record or authorized representative, defined herein as a party present and speaking at the City Planning Board public hearing, with the Zoning Administrator within fifteen (15) days from the date of the City Planning Board recommendation, it will not be necessary for stenographic notes to be transcribed or publication to be made, however, if such an appeal is taken, it will be necessary for stenographic notes to be transcribed and for the City Clerk to place two (2) advertisements of the pending consideration by the City Council. Such publication shall be in the usual form and shall be made in a newspaper of general circulation within the City of Jackson, Mississippi, at least fifteen (15) days before such hearing before the Jackson City Council. Within sixty (60) calendar days after the date set in the case advertisement, the City Council shall approve or deny, in whole or in part, the recommendation of the City Planning Board, or where there is need for additional information, may remand the case to the City Planning Board for further consideration, and this shall be done by the City Council on the record of the case.

Section 1704-A Procedure for Text Amendments

No text amendment shall be passed by the City Council unless and until the following conditions have been met:

1704.01-A Public Hearing Held: After public notice has been published as aforementioned (Section 1702-A), a public hearing on the proposed text amendment shall be held separately and/or jointly before the City Planning Board and/or the City Council. At said hearing, any individual may appear in person or by agent.

1704.02-A Public Hearing Procedures: Proceedings of the hearing before the City Planning Board and/or City Council shall be taken down in shorthand and/or mechanical or tape recording, which cannot be altered. The City Planning Board and/or the City Council may proceed informally without strict compliance with rules of evidence. The Chairperson of the City Planning Board shall act as moderator unless the hearing is held jointly or separately by the City Council, then the President of the City Council shall act as moderator.